

Message Text

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ACTION DLOS-09

INFO OCT-01 IO-13 ISO-00 ACDA-12 AGRE-00 AID-05 CEA-01

CEQ-01 CG-00 CIAE-00 COME-00 DODE-00 DOTE-00

EB-08 EPA-01 SOE-02 DOE-15 FMC-01 TRSE-00 H-01

INR-10 INT-05 JUSE-00 L-03 NSAE-00 NSC-05 NSF-01

OES-09 OMB-01 PA-01 PM-05 SP-02 SS-15 ICA-11

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FM USMISSION USUN NEW YORK

TO SECSTATE WASHDC 3320

C O N F I D E N T I A L SECTION 01 OF 02 USUN NEW YORK 03553

FROM LOSDEL

E.O. 11652 GDS

TAGS: PLOS

SUBJECT: LOS CONFERENCE DAILY SUMMARY - SEPTEMBER 7

SUMMARY: NG-1 CONTINUED DISCUSSION OF AWARDDING OF CONTRACTS (PARAGRAPH 5, ANNEX II). NG-2 DEBATED NORWAY'S PROPOSAL FOR FINANCIAL ARRANGEMENTS. THE NETHERLANDS OFFERED A NEW FINANCIAL ARRANGEMENTS PROPOSAL. IN COMMITTEE III, THE US ENTERED AMENDMENTS TO THE MARINE SCIENCE PROVISIONS OF THE ICNT. THE "SECRET" GROUP OF COMPARATIVE LAW EXPERTS CONTINUED ITS STUDY OF SEABED DISPUTES AND AGREED THE SECRETARIAT SHOULD PREPARE A REVIEW OF VARIOUS SYSTEMS OF COMMERCIAL ARBITRATION. IN OTHER MATTERS, A PARALLEL SIX LANGUAGE TEXT WILL BE READY PRIOR TO THE NEXT SESSION. END SUMMARY

1. IN NG-1, DISCUSSION CONTINUED ON PARAGRAPH 5(J), ANNEX II. THERE WERE SEVERAL MORE G-77 INTERVENTIONS IN SUPPORT OF INDIA'S PROPOSAL THAT THE AUTHORITY BE GIVEN BROAD DISCRETION TO "ENSURE" THAT THE ENTERPRISE
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WOULD ENTER OPERATIONAL ACTIVITY "FROM DAY ONE". GREECE SUGGESTED THAT THE UK'S "ANTI-FREEZE" PROPOSAL BE MODIFIED TO ALLOW THE AUTHORITY TO DETERMINE WHETHER OR NOT A RESERVED AREA SHOULD LOSE ITS STATUS AFTER A FIXED PERIOD AND SUGGESTED THAT THIS PERIOD BE 40 YEARS.

2. DEBATE OVER SUBPARAGRAPH (K) CENTERED ON AN AMEND-

MENT BY CHILE THAT DISCRETION BE GIVEN TO THE AUTHORITY OVER THE GRANTING OF FINANCIAL INCENTIVES TO JOINT VENTURES. MOST G-77 DELEGATES WHO SPOKE SUPPORTED CHILE. NIGERIA, HOWEVER, SAID THAT IF THE CONTRACTOR IS WILLING TO ENTER A JOINT VENTURE WITH THE ENTERPRISE, HE SHOULD WITHOUT QUESTION RECEIVE WHATEVER INCENTIVES ARE PROVIDED FOR IN OTHER PARTS OF THE ANNEX. THE BRITISH DELEGATE ASKED WHETHER (K) WAS REALLY NEEDED AND, IF SO, IF IT WERE LOCATED PROPERLY. CHAIRMAN NJENGA SUGGESTED THAT THE DRAFTING COMMITTEE LOOK AT THIS PROBLEM, BUT THIS SUGGESTION WAS OPPOSED BY THE UK (WHICH WISHED THE MATTER TO BE TAKEN UP IN NG-2) AND SEVERAL G-77 DELEGATES (WHO WISHED (K) TO REMAIN IN PARAGRAPH 5.) CHAIRMAN NJENGA REPORTED THAT THE DELEGATIONS WORKING ON QUOTA/ANTI-MONOPOLY PROBLEMS HAD REQUESTED THAT DISCUSSION OF THE SUBPARAGRAPH BE DELAYED UNTIL THE NEXT MEETING OF THE GROUP.

3. CHILE PROPOSED THAT A NEW SUBPARAGRAPH (M) BE ADDED TO PARAGRAPH 5. THE ADDITION WOULD SPECIFICALLY SUBJECT PARAGRAPH 5 TO THE PROVISIONS OF ARTICLE 153 (REVIEW CONFERENCE). BOTH THE WORDING AND THE REASONING BEHIND THE CHILEAN SUGGESTION WERE UNCLEAR TO MANY DELEGATIONS. IT WAS DECIDED TO POSTPONE DISCUSSION UNTIL THE PARAGRAPH COULD BE DISTRIBUTED IN WRITTEN FORM.

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4. NG-2 (FINANCIAL ARRANGEMENTS) MET TO DISCUSS THE EVENSEN PROPOSAL AND EVERY DELEGATE WHO SPOKE PRAISED THE NORWEGIAN MINISTER FOR HIS EFFORTS. ALTHOUGH VOICING A MODERATE REACTION AND SEEMING TO ACCEPT IT AT LEAST AS A BASIS FOR NEGOTIATION, SOME G-77 DELEGATES SUGGESTED BEEFING-UP THE PROPOSAL. ONE EXCEPTION WAS BRAZIL (THOMPSON-FLORES) WHICH STATED IN A MILD WAY THAT PERHAPS THE CONFERENCE SHOULD CONSIDER SOLELY ROYALTY-ONLY PROPOSALS.

5. THE SOVIET COMMENT ON EVENSEN'S PROPOSAL WAS MIXED CITING BOTH POSITIVE AND NEGATIVE ASPECTS OF THE DRAFT. THE FINAL USSR ATTITUDE, IT WAS NOTED, WOULD DEPEND ON THE ATTITUDE OF OTHERS.

6. INDIA (BHUSHAN) COMMENTED THAT IF THE MIT MODEL SHOWED ONLY A 6.68 PERCENT RATE OF RETURN FOR THE INDIAN PROPOSAL, THEN THE AMOUNT WOULD BE TOO LOW. HE STATED THAT ALL NUMBERS IN THE INDIAN PROPOSAL WERE NEGOTIABLE, BUT BY THE END OF HIS STATEMENT HE SEEMED TO THINK THAT 60 MILLION DOLLARS WAS REALLY NOT THAT UNREASONABLE FOR A BONUS PAYMENT CONSIDERING THE SIZE OF INVESTMENT THAT A MINER MUST

MAKE.

7. THE NETHERLANDS, SPEAKING ON BEHALF OF AN UNSPECIFIED NUMBER OF EEC COUNTRIES, TABLED A NEW FINANCIAL ARRANGEMENTS PROPOSAL WHICH HAD THE FOLLOWING CHARACTERISTICS:

(1) A ROYALTY PAYMENT OF 3.75 PERCENT OF THE MARKET VALUE OF THE DRY NODULES;

(2) IF THE MARKET VALUE COULD NOT BE FIXED, THEN IT WOULD BECOME A MATTER OF NEGOTIATION BETWEEN THE AUTHORITY AND THE CONTRACTORS; AND

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FROM LOSDEL

(3) THE AUTHORITY'S SHARE OF NET PROCEEDS WOULD BE A PERCENTAGE EQUAL TO TWO TIMES THE RATE OF RETURN MINUS SIX, WITH PROVISIONS WHICH WOULD SAFEGUARD A MINIMUM RATE OF RETURN FOR THE CONTRACTOR.

8. THE US DID NOT COMMENT PUBLICLY ON THIS PROPOSAL BUT PRIVATELY EXPRESSED CONCERN WITH THE IDEA THAT THE ATTRIBUTABLE NET PROCEEDS WOULD BE A MATTER OF NEGOTIATION BETWEEN THE AUTHORITY AND THE CONTRACTORS. THE NETHERLANDS (SONDAAL) REPLIED THAT THIS WAS NOT A MATTER OF CONCERN TO EEC COMPANIES, WHICH FELT THAT THEY COULD NEGOTIATE WITH THE AUTHORITY MUCH AS THEY NEGOTIATE WITH DEVELOPING COUNTRIES. THE US EXPRESSED SKEPTICISM

AT THIS IDEA BECAUSE OF THE INFLUENCE WHICH THE LAND-BASED PRODUCERS MAY WELL EXERT ON THE AUTHORITY.

9. DURING THE SESSION, KOH INQUIRED OF THE GROUP WHETHER THE QUESTION OF ATTRIBUTABLE NET PROFITS COULD BE DONE AWAY WITH AND WHAT THE OPINION OF THE GROUP WAS WITH REGARD TO A REASONABLE RATE OF RETURN. THE US REPLIED CONFIDENTIAL

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THAT IT WOULD BE POSSIBLE TO DO AWAY WITH THE CONCEPT OF ATTRIBUTABLE NET PROFITS IN NAME ONLY BECAUSE ANY SYSTEM MUST TAKE INTO ACCOUNT THE VALUE ADDED BY THE MINING SECTOR. THE US FURTHER REPLIED THAT THE QUESTION OF WHAT WOULD BE A REASONABLE RATE OF RETURN WAS MISGUIDED BECAUSE ONE WAS NOT NEGOTIATING TO DEVELOP A REASONABLE RATE OF RETURN, BUT, RATHER TO ASSURE THAT SEABED MINING WOULD TAKE PLACE AND THAT THE INTERNATIONAL COMMUNITY WOULD SHARE FAIRLY IN THE BENEFIT OF SUCH MINING. THE ONLY WAY TO DO THIS IN VIEW OF THE LACK OF CERTAINTY ABOUT THE FUTURE, WHICH EVEN THE MIT MODEL CANNOT ASSUREDLY PREDICT, IS TO IMPLEMENT A SELF-ADJUSTING SYSTEM BASED PRIMARILY ON PROFIT SHARING.

10. IN COMMITTEE III, THE US (WULF) INTRODUCED AMENDMENTS TO THE SCIENCE PROVISIONS OF THE ICNT (US PROPOSALS SENT SEPTEL). THE US INTERVENTION WAS DELIBERATELY "LOW KEY" IN AN ATTEMPT TO KEEP RESPONSES AT A SIMILAR LEVEL. THE FRG, UK, AND ITALY GENERALLY SUPPORTED THE AMERICAN AMENDMENTS ALTHOUGH THEY WANTED ARTICLE 258 BIS (RESEARCH ON THE CONTINENTAL SHELF BEYOND 200 MILES) TO BE DISCUSSED IN THE CONTEXT OF AN OVERALL SETTLEMENT OF THE SHELF ISSUES IN NG-6. TIME PERMITTED ONLY A LIMITED NUMBER OF INTERVENTIONS BY DEVELOPING COUNTRIES. GENERALLY THEIR RESPONSE WAS LOW KEY; BUT, AS THE US EXPECTED, THEY ALL REJECTED PROPOSED AMENDMENTS TO 247(1), 265, 296. ARTICLE 250(2) ALSO RECEIVED SOME CRITICISM. MOROCCO AND INDIA STATED THAT THE US PROPOSALS WOULD HAVE TO BE STUDIED AT THE NEXT SESSION, AND CHAIRMAN YANKOV (BULGARIA) GENERALLY AGREED.

11. IN ITS FINAL MEETING, THE ENGLISH LANGUAGE GROUP OF THE DRAFTING COMMITTEE COMPLETED DISCUSSION OF THE CONFIDENTIAL

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CONCURRENT-PHRASES PAPER PREPARED BY THE SECRETARIAT AND WILL CIRCULATE ITS CONCLUSIONS TO THE OTHER LANGUAGE

GROUPS PRIOR TO THE CLOSE OF THE SESSION. THE COMMITTEE HAS DECIDED TO RECOMMEND AN INTERSESSIONAL MEETING ONLY IF OTHER COMMITTEES CONVENE AND, THEN, TO MEET SIMULTANEOUSLY. THE SECRETARIAT HAS UNDERTAKEN TO PREPARE A SINGLE DOCUMENT CONTAINING THE SIX PARALLEL LANGUAGE TEXTS (INCLUDING THE RESULTS OF INTERNAL REFERENCE DISCUSSIONS) WHICH WILL BE READY PRIOR TO THE NEXT SESSION. YOUNG

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